

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

PBM PRODUCTS, LLC

Plaintiff,

v.

Action No. 3:09-CV-269

MEAD JOHNSON NUTRITION COMPANY
and MEAD JOHNSON & COMPANY,

Defendant.

ORDER

THIS MATTER is before the Court on six Motions filed by PBM and six Motions filed by Mead Johnson. After a full review of all the pleadings and a hearing regarding the pending motions, the Court resolves them as follows:

1. PBM's Motion for Leave to File Amended Complaint for Injunctive and Other Relief (Docket No. 87) is GRANTED and, thus, PBM Nutritionals, LLC will be added as a party plaintiff.
2. PBM's Motion for Partial Summary Judgment as to Counts 2, 3, and 4 of Mead Johnson's counterclaims (Docket No. 96) is GRANTED as to Counts 2 and 4 and DENIED as to Count 3.
3. Mead Johnson's Motion for Partial Summary Judgment as to Liability for Counts 1, 2, and 4 of its counterclaims (Docket No. 95) is DENIED.
4. Mead Johnson's Motion for Partial Summary Judgment as to Counts 1 and 3 of PBM's Complaint (Docket No. 94) is DENIED as to Count 1 and GRANTED as to Count 3.

Thus, Mead Johnson's Motion for Partial Summary Judgment (Docket No. 55), which

also sought summary judgment on PBM's Count 1, is likewise DENIED.

5. PBM's Motion in Limine to Exclude Testimony of Dr. Gering (Docket No. 97) is GRANTED as to Gering's so-called "CDB damage" calculations and DENIED as to Gering's Lanham Act damage calculations.
6. PBM's Motion in Limine to Exclude Testimony of Dr. Dhar (98) is DENIED.
7. PBM's Motion in Limine to Exclude Evidence (Docket No. 125) is GRANTED.
8. PBM's Motion to Exclude Witnesses and to Quash Trial Subpoenas (Docket No. 154) is GRANTED as to Dr. Euler and DENIED in all other respects.
9. Mead Johnson's Motion in Limine to Exclude Testimony of Dr. Petersen (116) is DENIED.
10. Mead Johnson's Motion in Limine to Exclude Testimony of Dr. Wise (117) is DENIED.
11. Mead Johnson's Motion in Limine to Exclude Testimony of Mr. Schoen (118) is DENIED.
12. Mead Johnson's Motion in Limine to Exclude Testimony of Mr. Ridgway (119) is DENIED.

Appropriate supporting memoranda of law will be issued in due course.

Let the Clerk send a copy of this Order to all counsel of record.

It is SO ORDERED.

<p>_____/s/_____ James R. Spencer Chief United States District Judge</p>
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ENTERED this 27th day of October 2009